

**OCCUPATIONAL SAFETY
AND HEALTH STANDARDS BOARD**

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Attachment No. 2

INITIAL STATEMENT OF REASONS**CALIFORNIA CODE OF REGULATIONS
TITLE 8: ELEVATOR SAFETY ORDERS**

Chapter 4, Subchapter 6, Article 9, Section 3071(j)(1)(E)
Title 24, Part 7, Section 7-3071(j)1.E.

Test of Firefighters' Service**PROBLEM ADDRESSED BY PROPOSED ACTION**

This proposal provides consistency and clarity with respect to the hydraulic elevator five-year load test specified in Section 3071(j) and the firefighters' service test specified in subsection 3071(j)(1)(E), Elevator Safety Orders.

Existing Section 3071(j) requires that every hydraulic elevator be load tested when installed, and again at intervals not to exceed five years. Subsection 3071(j)(1)(E) requires the elevator firefighters' service be tested, in conjunction with the five-year load test, to demonstrate that the firefighters' service, if provided, functions under fire and other emergency conditions specified in Section 3041(c) and Section 3071(l).

Three problems are evident with Section 3071(j). First, there is no relationship between the five-year load test and the firefighters' service test indicated in subsection 3071(j)(1)(E), in either the functional purpose of the tests or the frequency of the tests. Therefore, subsection 3071(j)(1)(E) should not be part of the five-year load test specified in Section 3071(j). Second, Section 3071(j) is ambiguous because it could be interpreted to mean that the firefighters' service test is required only for hydraulic elevators, and not other passenger elevators. This is because the five-year load test for hydraulic elevators specified in Section 3071(j), and the firefighters' service test specified in subsection 3071(j)(1)(E), are located in Article 9 titled "Hydraulic Elevators." Finally, the five-year testing requirement is in conflict with the monthly elevator general maintenance testing requirement in Section 3000(h).

This proposal deletes subsection 3071(j)(1)(E). However, it does not delete the requirement to monitor the firefighters' service. Monitoring of firefighters' service is still required as part of the general elevator maintenance procedures, according to Section 3000(h). Section 3000(h), which became effective in 1998, applies to all passenger elevators.

Section 3000(h) specifies elevator maintenance shall comply with Part XII of ASME A17.1-1996 "Safety Code for Elevators and Escalators," thereby incorporated by reference. Rule 1206.7 in Part XII of ASME A17.1-1996, applicable to all elevators, specifies in part "All elevators

provided with firefighters' service shall be subjected to a monthly Phase I recall and a minimum of one-floor operation on Phase II to assure the system is maintained in proper operating order."

The proposed modification will clarify that monitoring of firefighters' service is a function of the elevator's monthly general maintenance procedures. It will also clarify that monitoring of the firefighters' service apply to **all** elevators, if firefighters' service is provided.

SPECIFIC PURPOSE AND FACTUAL BASIS OF PROPOSED ACTION

This proposed rulemaking action contains minor nonsubstantive, editorial, reformatting of subsections, and grammatical revisions. These nonsubstantive revisions are not all discussed in this Specific Purpose and Factual Basis of Proposed Action. However, these proposed revisions are clearly indicated in the regulatory text in underline and strikeout format. Furthermore, the informative digest contains occupational safety and health regulations which are building standards for codification in Title 24, Part 7, California Elevator Safety Construction Code. The building standard section, herein, will be identified by its Title 24 section number in **bold** type following corresponding Title 8 statement of reasons.

Article 9. Hydraulic Elevators

Section 3071. Operation, Operating Devices and Control Equipment.

Section 3071(j) Load Test Requirements.

Section 3071(j)(1)(E)

This proposal deletes Section 3071(j)(1)(E) which specifies that the firefighters' service operation shall function and comply with Section 3041(c) and 3071(1), if firefighters' service is provided.

(Title 24, Part 7, Section 7-3071(j)1.E.)

Deletion of subsection 3071(j)(1)(E) is necessary for clarity and consistency. It clarifies that the monitoring/testing of the elevator firefighters' service, if firefighters' service is provided, is required under the general maintenance procedures addressed in Section 3000(h). It will also clarify in that the monitoring/testing of the elevator firefighters' service applies to all elevators, as specified in Rule 1206.7 of Part XII, ASME A17.1-1996, incorporated by reference in Section 3000(h).

DOCUMENTS RELIED UPON

1. Letter from Mr. Greg Walker, Otis Elevator Company, Petitioner, dated June 3, 1998. (Petition File No. 389)
2. Division Evaluation Report of Petition File No. 389, dated July 8, 1998.
3. OSH Standards Board's Petition Decision File No. 389, dated October 15, 1998 and subsequent amendment served October 16, 1998.

4. American Society of Mechanical Engineers (ASME) A17.1-1996 "Safety Code for Elevators and Escalators," an American National Standard.

These documents are available for review during normal business hours at the Standards Board Office located at 2520 Venture Oaks Way, Suite 350, Sacramento, California.

DOCUMENTS INCORPORATED BY REFERENCE

None.

IDENTIFIED ALTERNATIVES THAT WOULD LESSEN ADVERSE IMPACT ON SMALL BUSINESSES

No adverse impact on small businesses is anticipated from the implementation of the proposed amendments. Therefore, no alternatives which would lessen the impact on small businesses have been identified.

SPECIFIC TECHNOLOGY OR EQUIPMENT

This proposal will not mandate the use of specific technologies or equipment.

COST ESTIMATE OF PROPOSED ACTION

Cost or Savings to State Agencies

No costs or savings to state agencies will result as a consequence of the proposed action.

Impact on Housing Costs

The proposal will not significantly affect housing costs.

Impact on Businesses

This proposal will not result in a significant adverse economic impact on businesses, including the ability of California businesses to compete with businesses in other states.

Cost Impact on Private Persons or Entities

The proposal will not require private persons or entities to incur additional costs in complying with the proposal.

Costs or Savings in Federal Funding to the State

The proposal will not result in costs or savings in federal funding to the state.

Costs or Savings to Local Agencies or School Districts Required to be Reimbursed

No costs to local agencies or school districts are required to be reimbursed. See explanation under "Determination of Mandate."

Other Nondiscretionary Costs or Saving Imposed on Local Agencies

This proposal does not impose nondiscretionary costs or savings on local agencies.

DETERMINATION OF MANDATE

The Occupational Safety and Health Standards Board has determined that the proposed regulation does not impose a local mandate. Therefore, reimbursement by the state is not required pursuant to Part 7 (commencing with Section 17500) of Division 4 of the Government Code because the proposed amendment will not require local agencies or school districts to incur additional costs in complying with the proposal. Furthermore, this regulation does not constitute a "new program or higher level of service of an existing program within the meaning of Section 6 of Article XIII B of the California Constitution".

The California Supreme Court has established that a "program" within the meaning of Section 6 of Article XIII B of the California Constitution is one which carries out the governmental function of providing services to the public, or which, to implement a state policy, imposes unique requirements on local government and does not apply generally to all residents and entities in the state. (County of Los Angeles v. State of California (1987) 43 Cal 3d.46.)

This proposed regulation does not require local agencies to carry out the governmental function of providing services to the public. Rather, the regulation requires local agencies to take certain steps to ensure the safety and health of their own employees only. Moreover, this proposed regulation does not in any way require local agencies to administer the California Occupational Safety and Health program. (See City of Anaheim v. State of California (1987) 189 Cal.App.3d 1478.)

This proposed regulation does not impose unique requirements on local governments. All employees - state, local and private - will be required to comply with the prescribed standard.

PLAIN ENGLISH STATEMENT

It has been determined that the proposal may affect small business. The express terms of the proposal written in plain English have been prepared by the Board pursuant to Government Code Sections 11342(e) and 11346.2(a)(1) and are available from the agency contact person named in this notice. The informative digest for this proposal constitutes a plain English overview.

ASSESSMENT

The adoption of the proposed amendments to this regulation will neither create nor eliminate jobs in the State of California nor result in the elimination of existing businesses in the State of California.

ALTERNATIVES THAT WOULD AFFECT PRIVATE PERSONS

No alternative considered by the Board would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.